

REMARKS

Reconsideration of the present application in view of the above claim amendments and the following remarks is respectfully requested.

Status of the Claims

Claims 13, 15, 17-19, 21-22, 25-26 and 30-41 are pending. Claims 15, 18-19, 22 and 25-26 are amended. Claim 15 is amended to a method comprising the step of applying a **composition** to human **skin**. Claims 18-19, 22 and 26 are amended to overcome the indefiniteness rejections, as discussed below. Claim 25 is amended to depend from claim 15, as well as for clarity. Support for these amendments is found throughout the specification as originally filed.

Claims 1-12, 14, 16, 20, 23-24 and 27-29 were previously canceled. Claim 13 is canceled in the present action without prejudice to pursuing claims of the same or similar scope in a continuation or divisional application, or in future prosecution of the present application. New claims 30-41 are added. Support is found throughout the specification as originally filed.

Claims 15, 17-19, 21-22, 25-26 and 30-41 are presented for examination.

No new matter has been introduced.

Summary of the Invention as Claimed

One aspect of the pending claims as presently amended is directed to a method for cosmetic treatment of the human body comprising applying to human **skin** a **composition comprising** an extract of leaves of Castanea sativa and at least one cosmetic and/or dermopharmaceutical auxiliary and/or additive adapted for topical treatment of human skin, selected from a Markush group of such substances, wherein the treatment provides an anti-ageing effect (claims 15, 17-19, 21-22, 25-26, 30-34).

A second aspect of the claims now pending is directed to a method for cosmetic treatment of the human body which comprises the step of applying to human **skin** a **composition consisting of** (a) a Castanea sativa leaf extract, and (b) one or more **thickeners**, preferably **polysaccharides**, wherein the treatment provides an anti-ageing effect (claims 34-37).

A third aspect of the claims as presently amended is directed to a method for cosmetic treatment of the human body which comprises the step of applying to human **skin** a **composition consisting of** (a) a Castanea sativa leaf extract, (b) one or more **thickeners**, preferably **polysaccharides**, and (c) water, wherein the treatment provides an anti-ageing effect (claims 38-41).

Rejections under 35 U.S.C. § 112, second paragraph

Previously pending claims 18-19, 22 and [25] 26 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 18-19 were allegedly indefinite with regard to the phrases “wherein said cosmetic treatment provides at least one effect selected from...” and “wherein the cosmetic treatment provides a whitening effect or a lightening effect”, as being unclear with regard to the “anti-ageing effect” recited in base claim 15. In response, although applicants do not necessarily agree with the Examiner’s arguments, in order to further prosecution, the claims have been amended to indicate that said effects are anti-ageing effects.

Claims 22 and [25] 26 were allegedly indefinite with regard to the process steps involving removing solvent from the “solution of the extract” as an allegedly distinct entity. In response, although applicants do not necessarily agree with the Examiner’s arguments, in order to further prosecution, the claims have been amended to eliminate the phrase “solution of the extract in the solvent”.

In view of these amendments, the Examiner is respectfully requested to withdraw the indefiniteness rejections.

Rejections under 35 U.S.C. § 103(a)

Previously pending claims 13, 15, 17-19, 21-22 and 25-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over International Cosmetic Ingredient Dictionary and Handbook, CRC Press, 9th edition, 2002 (“International Cosmetic Ingredient Dictionary”), in view of the admitted state of the art, and further in view of Schneider (US 6,184,247; “Schneider”) and Chiej (The MacDonald Encyclopedia of Medicinal Plants, MacDonald Publishing, 1984, Plant number 72, Castanea sativa; “Chiej”), with evidence provided by Chevallier (Encyclopedia of Herbal Medicine, 2nd American edition, DK Publishing, 2000, pp. 104, 291; “Chevallier”). Applicants respectfully traverse the rejection.

International Cosmetic Ingredient Dictionary discloses that an extract of the leaves of chestnut, Castanea sativa, has a skin-conditioning function (not anti-ageing). As noted by the Examiner, International Cosmetic Ingredient Dictionary fails to disclose a topical composition containing auxiliaries or additives as presently claimed.

Schneider discloses a method of enhancing the rate of skin cell renewal/exfoliation by topically applying to the skin a composition comprising a therapeutically effective amount of an **ascorbic acid derivative** in a cosmetically acceptable vehicle, which may also include plant extracts such as **witch hazel**; chestnut extract (Castanea sativa) is neither explicitly nor implicitly taught. The composition may be used to treat conditions including wrinkles and age spots that result from environmental assaults. In order to cure the deficiency in Schneider regarding the lack of disclosure of Castanea sativa extract, the Examiner joined Chiej.

Chiej discloses that an infusion, tincture or fluid extract of Castanea sativa leaves and/or chestnut skins serves as a natural **shampoo** (not a skin-treating

composition, but instead a hair-treating composition). Chiej also states that *Castanea sativa* leaves have been used as a substitute for witch hazel.

The preparation of infusions and decoctions is evidenced by Chevallier. Further, as evidenced by Chevalier, witch hazel is used as an astringent, an anti-inflammatory, and an anticoagulant to stop external bleeding (none are anti-ageing effects).

Even though applicants do not necessarily agree with the Examiner's characterizations of the cited documents, in order to further prosecution, the claims have been amended in a manner which overcomes the obviousness rejections. Thus, base claim 15 is no longer drawn to a method comprising applying an extract of *Castanea sativa* leaves to the surface of the human body, but is now drawn to a method comprising applying a **composition** to human **skin**, the composition being a topical composition **comprising** (a) an extract of *Castanea sativa* leaves and (b) at least one auxiliary and/or additive, wherein the treatment provides an anti-ageing effect. Preferably the additive is a thickener. Preferably the thickener is a polysaccharide. Another aspect of the invention is drawn to a similar method comprising applying a composition **consisting of** (a) an extract of *Castanea sativa* leaves and (b) one or more thickeners, preferably a polysaccharide, wherein the treatment provides an anti-ageing effect. A further aspect of the invention is drawn to a similar method comprising applying a composition **consisting of** (a) an extract of *Castanea sativa* leaves, (b) one or more thickeners, preferably a polysaccharide, and (c) water, wherein the treatment provides an anti-ageing effect. The combination of references cited by the Examiner fails to disclose the methods as presently claimed.

Therefore, for at least these reasons, the claims as presently amended define novel and unobvious subject matter over the cited art.

Previously pending claims 13, 15, 17-19, 21-22 and 25-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chiej in view of Grand (US 3,849,548), and the state of the art as evidenced by Chevallier. Applicants respectfully traverse the rejection.

As discussed above, Chiej discloses that an infusion or fluid extract of *Castanea sativa* leaves and/or chestnut skins itself serves as a natural shampoo (not a skin-treating composition, but instead a hair-treating composition). Although Chiej teaches that infusions of *Castanea sativa* leaves/nut skins may be used as a natural shampoo (that is without any synthetic ingredients added thereto), there is clearly no support in Chiej for inclusion of the one or more auxiliaries and/or additives as required by applicants' present claims. Therefore the examiner joined Grand in order to overcome this deficiency in Chiej.

Grand discloses a method of improving the cosmetic condition of the skin or hair, comprising the step of applying thereto a conditioning amount of a composition comprising an aminopolyurea resin in a cosmetic vehicle. The cosmetic vehicle may optionally include "plant extracts". No specific plant is referenced; in particular, Grand is silent concerning a *Castanea sativa* leaf extract.

As discussed above, Chevallier discloses the preparation of infusions and decoctions.

As discussed above, even though applicants do not necessarily agree with the Examiner's characterizations of the cited documents, in order to further prosecution, the claims have been amended in a manner which overcomes the obviousness rejections. Thus, base claim 15 is no longer drawn to a method comprising applying an extract of *Castanea sativa* leaves to the surface of the human body, but is now drawn to a method comprising applying a **composition**

to human **skin**, the composition being a topical composition **comprising** (a) an extract of *Castanea sativa* leaves and (b) at least one auxiliary and/or additive, wherein the treatment provides an anti-ageing effect. Preferably the additive is a thickener. Preferably the thickener is a polysaccharide. Another aspect of the invention is drawn to a similar method comprising applying a composition **consisting of** (a) an extract of *Castanea sativa* leaves and (b) one or more thickeners, preferably a polysaccharide, wherein the treatment provides an anti-ageing effect. A further aspect of the invention is drawn to a similar method comprising applying a composition **consisting of** (a) an extract of *Castanea sativa* leaves, (b) one or more thickeners, preferably a polysaccharide, and (c) water, wherein the treatment provides an anti-ageing effect. The combination of references cited by the Examiner fails to disclose the methods as presently claimed.

Taken *in toto*, there is simply no teaching, suggestion or motivation in the combination of Chiej and Grand, as evidenced by Chevallier, that would lead one skilled in the art at the time of the invention to a method of treating human skin with a composition comprising/consisting of a *Castanea sativa* leaf extract and at least one auxiliary and/or additive adapted for topical treatment of the human body, wherein an anti-ageing effect would be expected or observed.

Accordingly, at least for these reasons, applicants respectfully submit that the claims as presently amended define novel and patentably unobvious subject matter over the cited combination of art.

Conclusion

In summary, in view of the above claim amendments and remarks, applicants respectfully submit that the invention as now claimed defines subject matter which is patentable over the cited documents. Therefore, the Examiner is respectfully requested to enter the amendments, reconsider, withdraw the rejections, and allow the claims.

If any additional fees are required in support of this application, authorization is granted to charge our Deposit Account No. 50-1943.

Respectfully submitted,

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